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PATENT

Case Docket No. AUTOB.060A

Date: November 26, 2003

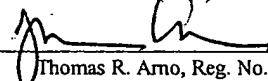
Page 1

In re application of : Ellis, et al.
Appl. No. : 09/251,218
Filed : February 16, 1999
For : PRODUCT
CONFIGURATION
DISPLAY SYSTEM AND
METHOD WITH USER
REQUESTED PHYSICAL
PRODUCT
ALTERATIONS
Examiner : Pierre E. Elisca
Art Unit : 3621

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Transmitted herewith in triplicate is an Appellants' Brief to the Board of Patent Appeals:

- (X) Fee for filing brief in the amount of \$330 is enclosed.
- (X) An extension of time to respond for 1 month is hereby requested.
Time Extension Fee:
 - (X) One month (\$110)
- (X) A check in the amount of \$440.00 to cover the foregoing fees is enclosed.
- (X) If applicant has not requested a sufficient extension of time and/or has not paid any other fee in a sufficient amount to prevent the abandonment of this application, please consider this as a Request for an Extension for the required time period and/or authorization to charge our Deposit Account No. 11-1410 for any fee which may be due. Please credit any overpayment to Deposit Account No. 11-1410.

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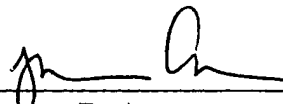
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AUTOB.060A



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Ellis, et al.
Appl. No. : 09/251,218
Filed : February 16, 1999
For : **PRODUCT CONFIGURATION
DISPLAY SYSTEM AND
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PRODUCT ALTERATIONS**
Examiner : Pierre E. Elisca
Group Art Unit : 3621

CERTIFICATE OF MAILING

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(Date)

Thomas R. Arno, Reg. No. 40,490

APPELLANT'S BRIEF

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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Dear Sir:

Appellant in the above-captioned patent application is appealing the rejection of Claims 1-16, 38-57, 67 and 68, all pending claims in this case, in the Office Action dated May 30, 2003. Since these claims have been at least twice rejected, in accordance with 37 C.F.R. § 1.191, this case is therefore in condition for appeal to the Board of Patent Appeals and Interferences.

Under 37 C.F.R. § 1.192, this appeal brief is filed in triplicate. A check in the amount of \$330.00 is included for the fee for filing a brief in support of an appeal under 37 C.F.R. § 1.17(c). If for some reason Appellant has not paid a sufficient fee for the filing of this appeal brief, authorization is given to charge our Deposit Account No. 11-1410 for any fee which may be due.

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I. TABLE OF AUTHORITIES

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II. REAL PARTY IN INTEREST

The real party in interest is Autobytel, Inc., assignee of this patent application.

III. RELATED APPEALS AND INTERFERENCES

No related appeals or interferences are currently pending.

IV. STATUS OF THE CLAIMS

This patent application was filed on February 16, 1999, with a total of 66 claims. In a first Office Action mailed on July 7, 2000, the Examiner rejected Claims 1-66 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,026,376 to Kenney in view of Burke ("Do You See What I See? The Future of Virtual Shopping," Journal of the Academy of Marketing Science, v25n4, pp. 352-360, Fall 1997) and Foley et al. ("Introduction to Computer Graphics," Addison-Wesley Publishing Company, Inc., 1993). In a response filed December 7, 2000, Appellant amended Claims 1, 17, 30, 37, 38, 58, 65 and 66. In a final Office Action mailed on March 14, 2001, the Examiner rejected Claims 1-66 under 35 U.S.C. § 103(a) as being unpatentable over Kenney in view of Burke and Foley, and additionally in view of Mills et al. ("Manufacturing goes virtual," Computer Aided Engineering," 1998) and Gottschalk et al. ("Engineers Mine the Online World"). Following a personal interview with Appellant's attorney on July 31, 2001 and the filing by Appellant of a Request for Continued Examination under 37 C.F.R. § 1.114, the Examiner issued a non-final Office Action, mailed on December 31, 2001, again rejecting Claims 1-66 under 35 U.S.C. § 103(a) as being unpatentable over Kenney in view of Burke, Foley, Mills and Gottschalk. In a response filed May 31, 2002, Appellant added new Claims 67-69. In a non-final Office Action mailed August 21, 2002, the Examiner rejected Claims 1-69 under 35 U.S.C. § 103(a) as being unpatentable over Kenney in view of Burke, Foley, Mills and Gottschalk. In a response filed December 20, 2002, Appellant canceled Claims 17-37, 58-66 and 69, and amended Claims 6 and 43. In a non-final Office Action mailed May 30, 2003, the Examiner rejected Claims 1-16, 38-57, 67 and 68 under 35 U.S.C. § 103(a) as being unpatentable over Kenney in view of Burke, Foley, Mills and Gottschalk. Claims 1-16, 38-57, 67 and 68 thus remain pending in the application, all of which are the subject of this appeal.

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V. STATUS OF AMENDMENTS

Appellant has not made any amendments to the claims subsequent to the non-final Office action mailed on May 30, 2003. Appellant filed a Notice of Appeal on August 27, 2003.

VI. SUMMARY OF THE INVENTION

Appellant's invention is generally directed to a product purchasing and configuration display system and method for displaying and modifying three-dimensional representations of products for buyers to purchase, for example, a vehicle.¹ The system receives a request from a buyer to change a product presentation that includes user-selected alterations of exterior or interior options of the product. The system displays the changed product presentation according to the request.²

The advantages of such a system are many, and include enabling the buyer to view the product in the desired product configuration prior to making the purchasing decision to increase buyer satisfaction and increase the likelihood of the seller making a sale.³ The system additionally enables the buyer to view and compare multiple products in multiple product configurations prior to making the purchasing decision.⁴ Therefore, the user is able to make a well-informed purchasing decision. In addition, the seller of the product incurs lower costs associated with the sale because the buyer requires less time and less information from the seller. Still further, since the buyer uses the claimed system and method to view the various product configurations and to make the purchasing decision prior to visiting the seller's facility, the seller can decrease the size of the seller's product inventory.

VII. ISSUE ON APPEAL

The issue on appeal is whether Claims 1-16, 38-57, 67 and 68 are obvious within the meaning of 35 U.S.C. § 103(a) over U.S. Patent No. 6,026,376 to Kenney in view of the Burke, Foley, Mills and Gottschalk references.

¹ Application, Figure 1, Figure 15, and specification, page 12, line 6 to page 13, line 25.

² Id. at Figure 13, Figure 4, and specification, page 31, line 19 to page 32, line 2.

³ Id. at Figure 4 and specification, page 32, lines 3-8.

⁴ Id. at Figure 11, Figure 14, and specification, page 33, line 24 to page 34, line 2.

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VIII. GROUPING OF CLAIMS

In arguing the patentability of the claims, where a number of claims contain features which are believed to be common to these claims and patentable over the art, the claims will be discussed in groups. It is believed that only the following claim groups stand or fall together:

- (i) Claims 1-16 and 38-53; and
- (ii) Claims 54-57, 67 and 68.

IX. ARGUMENT

For the following reasons, Appellant's inventive systems and methods, as recited in Claims 1-16, 38-57, 67 and 68, are not obvious within the meaning of 35 U.S.C. § 103(a) over U.S. Patent No. 6,026,376 to Kenney in view of the Burke, Foley, Mills and Gottschalk references.

A. CLAIM 1

1. The Combination Of Kenney, Burke, Foley, Mills And Gottschalk Does Not Teach Or Suggest All The Claim Limitations Of Claim 1

To establish a *prima facie* case of obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art.⁵ Appellant respectfully submits that the references of record do not teach or suggest all the limitations of Claim 1, as set forth below.

Independent Claim 1 is directed to a product configuration display system comprising a product display module configured to receive a request from a buyer terminal to change a product presentation. Claim 1 recites, among other limitations, a data center "configured to receive at least one request to change a product presentation from said buyer terminal." Claim 1 additionally recites a request to change a product presentation, "said request comprising user-selected alterations of physical product exterior/interior options, said product display module configured to display the changed product presentation comprising said user-selected alterations of physical product exterior/interior options in said product display screen."

Claim 1 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,026,376 to Kenney in view of the Burke article, the Foley textbook, the Mills article, and

⁵ *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (CCPA 1974).

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the Gottschalk article. Kenney describes a replication of the physical shopping experience in an online (virtual) environment.⁶ For example, the Kenney patent states that “[u]sing the present invention, a shopper can browse through a virtual duplicate of an actual store in a manner similar to being in the actual store itself.”⁷ Burke is an article from a marketing journal that forecasts the future viability of Internet shopping.⁸ Foley is an introductory textbook on computer graphics that describes principles of three-dimensional graphics such as rotating three-dimensional objects.⁹ Mills is an article regarding virtual manufacturing, which includes three-dimensional modeling of products in a computer-aided design (CAD) system.¹⁰ Gottschalk reports on the use of the Internet by engineers, including the use of CAD systems.¹¹

Appellant submits that features of the claimed invention are not disclosed by any of the Kenney, Burke, Foley, Mills and Gottschalk references. The Examiner acknowledges that “Kenney, Burke and Foley do not explicitly disclose said request comprising user-selected alterations of physical product exterior/interior options and said changed product presentation comprising said user selected alteration of physical exterior/interior options.”¹² The Examiner appears to rely on Mills and Gottschalk as teaching these features of Claim 1.¹³

Appellant respectfully submits that Mills and Gottschalk fail to cure the deficiencies of Kenney, Burke and Foley noted by the Examiner. As discussed above, Mills and Gottschalk mention CAD systems and three-dimensional modeling of objects.¹⁴ However, Mills does not describe user-selected alterations of physical product exterior/interior options as recited in Claim 1. The Examiner does not cite to a specific location in Mills, instead merely asserting that “Mills discloses a modeling and design CAD system used in (the) manufacture of product design with 3 D modeling of products.”¹⁵ Similarly, Gottschalk reports on the use of CAD systems over the

⁶ Kenney, U.S. Pat. No. 6,026,376 at Figures 4-7, Abstract, column 1, lines 27-34 and lines 41-43.

⁷ Id. at column 1, lines 41-43.

⁸ Burke, Raymond R., “Do you see what I see? The future of virtual shopping,” *Journal of the Academy of Marketing Science* v25n4, pp. 352-360, Fall 1997.

⁹ Foley et al., “Introduction to Computer Graphics,” Addison-Wesley Publishing Co., Inc., ISBN 0-201-60921-5.

¹⁰ Mills et al., “Manufacturing Goes Virtual,” *Computer-Aided Engineering*, Vol. 17, Issue 12, pp. 30-37, December 1998.

¹¹ Gottschalk et al., “Engineers Mine the Online World,” *Design News*, Vol. 52, Issue 10, pp. 48-56, May 1997.

¹² Office Action, mailed May 30, 2003, p. 4.

¹³ Id.

¹⁴ Mills at p. 3.

¹⁵ Office Action, mailed May 30, 2003, p. 4.

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Internet by system designers and engineers.¹⁶ The design systems of Mills and Gottschalk do not teach or suggest selected alterations of physical product exterior/interior options requested by a buyer terminal in a product configuration display system.

In view of the foregoing, Appellant submits that the combination of Kenney, Burke, Foley, Mills and Gottschalk does not teach or suggest all the limitations of Claim 1.

2. There Is No Suggestion Or Motivation To Combine The References' Teachings

To establish a *prima facie* case of obviousness, the Examiner must show some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to combine the reference teachings.¹⁷ To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references.¹⁸ When the motivation to combine the teachings of the references is not immediately apparent, it is the duty of the examiner to explain why the combination of the teachings is proper.¹⁹

Appellant submits that it is well settled that the Examiner must point to something in the prior art that suggests combining references.²⁰ Without such a suggestion, it is impermissible for the elements to be combined to form an obviousness rejection.²¹ The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the alteration.²²

Appellant submits that, even if it is assumed that the references teach or suggest all the limitations of Claim 1, the references do not contain the requisite suggestion or motivation to combine the references. The object of the Kenney system is to duplicate the conventional

¹⁶ Gottschalk at p. 1.

¹⁷ *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991).

¹⁸ *Ex Parte Clapp*, 227 U.S.P.Q. 972, 973 (Bd. Pat. App. & Inter. 1985).

¹⁹ *Ex Parte Skinner*, 2 U.S.P.Q.2d 1788 (Bd. Pat. App. & Inter. 1986).

²⁰ *ACS Hospital Systems, Inc. v. Motefiore Hospital*, 732 F.2d 1572, 1577, 221 U.S.P.Q. 929, 933 (Fed. Cir. 1984).

²¹ *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991); *In re Bond*, 910 F.2d 831, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990).

²² *In re Mills*, 916 F.2d 680, 16 U.S.P.Q.2d 1430 (Fed. Cir. 1990).

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physical shopping experience in an online (virtual) environment.²³ There would be no reason in a system such as Kenney to include user-selected alterations of physical product exterior/interior options. The shopping facilities of Kenney, such as a grocery store, restaurant, or office, display products that are not configurable or alterable by the purchaser.²⁴

In fact, Kenney teaches away from altering products, as the object of Kenney is to duplicate products as they exist in a physical store. This is in contrast to the teaching of the present invention of enhancing the shopping experience by providing capabilities that do not exist in the physical shopping environment, such as configuring products with combinations of exterior and interior options that do not exist in a dealer's inventory.

The Examiner asserts that it would have been obvious to combine Mills and Gottschalk with Kenney's virtual shopping because "not many consumers would buy a car without visually seeing and/or test driving the final product including its options."²⁵ However, Appellant submits that consumers currently do just what the Examiner asserts they would not do, that is, buy a car without seeing or test driving the final product they end up ordering from the dealer including all their desired options.

Because Kenney teaches away from the invention of Claim 1 and because none of the references contain a teaching or suggestion to so combine them, there is no teaching, suggestion or motivation to combine the CAD systems of Mills and Gottschalk with the Kenney system. In addition, the system in Kenney is used by a shopper,²⁶ while the CAD systems of Mills and Gottschalk are used by engineers and system designers.²⁷ The users (shoppers) of the Kenney system would have no need or ability to use the complex design features of Mills and Gottschalk, as the shoppers in Kenney are not system designers and do not design the virtual store or the products inside it. Instead, the users of Kenney merely view existing static products on the virtual store shelves. Therefore, there is no teaching, suggestion or motivation to combine the references as asserted by the Examiner. In addition, the Examiner has not properly shown any such teaching, suggestion or motivation.

²³ Kenney, U.S. Pat. No. 6,026,376 at Figures 4-7, Abstract, column 1, lines 27-34 and lines 41-43.

²⁴ Id. at Figure 6.

²⁵ Office Action, mailed March 14, 2001, p. 4.

²⁶ Kenney at Abstract and column 1, lines 40-45.

²⁷ Mills at p.3; Gottschalk at p.1.

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As mentioned above, the mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination.²⁸ Appellant submits that there is neither a problem suggested nor a solution offered by the combination of the Kenney, Burke, Foley, Mills and Gottschalk references with respect to the claimed subject matter. Whether or not the references can be combined, there is no suggestion of the desirability of the combination due to the different and incompatible problems suggested and solutions offered.

Appellant respectfully submits that such combination of references is inappropriate and does not make obvious the invention as claimed. Therefore, Appellant respectfully submits that Claim 1 defines subject matter which is patentable over the references of record. Accordingly, Appellant respectfully submits that Claim 1 is in condition for immediate allowance and such prompt allowance of the same is respectfully requested.

B. CLAIM 38

As independent Claim 38 recites similar limitations to Claim 1, Appellant submits that the arguments presented above with regard to Claim 1 apply with equal force to Claim 38. Accordingly, Appellant respectfully submits that Claim 38 defines subject matter which is patentable over the references of record, and is therefore in condition for immediate allowance.

C. CLAIMS 2-16 AND 39-53

If an independent claim is nonobvious under 35 U.S.C. § 103, then any claim depending therefrom is nonobvious.²⁹ Accordingly, Appellant submits that dependent Claims 2-16, which depend from Claim 1, and dependent Claims 39-53, which depend from Claim 38, also define subject matter which is patentable over the references of record, and are therefore in condition for immediate allowance.

D. CLAIMS 54-57, 67 AND 68

Appellant believes that Claims 54-57, 67 and 68 are separately patentable from Claims 1-16 and 38-53, and therefore do not stand or fall together with Claims 1-16 and 38-53. Claims 1-16 are directed to a product configuration display system involving a first product. Similarly,

²⁸ *In re Mills*, 916 F.2d 680, 16 U.S.P.Q.2d 1430 (Fed. Cir. 1990) (emphasis in original).

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Claims 38-53 are directed to a method of presenting at least one product configuration of a first product.

However, the systems and methods of Claims 54-57, 67 and 68 additionally include a second product. By including a second product, additional operations and system functionality become feasible that are not possible with single product systems and methods. Such additional operations and functionality are recited in Claims 54-57, 67 and 68.

The Examiner rejected Claims 54-57 by applying the same rejections as for Claims 21-24, respectively.³⁰ The Examiner admitted that Kenney did not explicitly disclose the limitations of these claims, and rejected them by taking Official Notice of these limitations.³¹ Appellant objected to the ambiguity of this Official Notice and submitted that none of the features were well known as asserted by the Examiner.³² In addition, Appellant stated that the ambiguity of the Examiner's assertions made it impossible for Appellant to assess the obviousness rejections and to respond to them.³³

Nonetheless, the Examiner continued to rely on the same Official Notice in subsequent Office Actions, despite offering no clarification or explanation of the Examiner's position. The Examiner did provide several references in one Office Action, stating only that "[s]everal references supporting said Official Notice are enclosed herewith."³⁴ The Examiner did not cite to any particular passage in the references as supporting the Official Notice. Upon review of these references, specifically the Rosen, Hurron, BMW website for motorcycle, Mitchener, and Northern Light website references, none appear to support Official Notice regarding at least "offering Internet shoppers with visual presentation from single product to multiple products" being old and well known in the art. In view of the foregoing, Appellant respectfully submits that the Examiner has not provided references that teach or suggest the limitations of Claims 54-57.

Regarding Claims 67 and 68, the Examiner rejected these claims for exactly the same reasons as for the Claim 1 rejections.³⁵ However, as discussed above, Claims 67 and 68 include

²⁹ *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988).

³⁰ Office Action, mailed July 7, 2000, p. 18.

³¹ Office Action, mailed August 21, 2002, pp. 10-11.

³² Response, mailed December 7, 2000, pp. 7-8.

³³ *Id.* at p. 8.

³⁴ Office Action, mailed March 14, 2001, p. 26.

³⁵ Office Action, mailed August 21, 2002, pp. 3-4.

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additional limitations not recited in Claim 1. The Examiner neither acknowledged these additional limitations nor provided any specific rejections or support as to where in the cited references these limitations are taught or suggested.³⁶

Therefore, Appellant respectfully submits that the Examiner has not shown that Claims 54-57, 67 and 68 are taught or suggested by the cited references. Appellant additionally submits that the references of record do not indeed teach or suggest a product configuration display system or method with the limitations of Claims 54-57, 67 and 68, including a second product. Appellant further submits that the arguments presented above with regard to Claims 1-16 and 38-53 also apply to Claims 54-57, 67 and 68.

In view of the foregoing, Appellant submits that Claims 54-57, 67 and 68 define subject matter which is patentable over the references of record. Accordingly, Appellant respectfully submits that Claims 54-57, 67 and 68 are in condition for immediate allowance and such prompt allowance of the same is respectfully requested.

E. THE EXAMINER FAILED TO ESTABLISH A *PRIMA FACIE* CASE OF OBVIOUSNESS

1. The Examiner Bears the Burden of Establishing a Prima Facie Case of Obviousness

The Court of Appeals for the Federal Circuit has held that in "rejecting claims under 35 U.S.C. § 103, the examiner bears the initial burden of presenting a *prima facie* case of obviousness. ... If the examiner fails to establish a *prima facie* case, the rejection is improper and will be overturned."³⁷

To establish a *prima facie* case of obviousness, three basic criteria must be met.³⁸ First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings.³⁹ Second, there must be a reasonable expectation of success.⁴⁰ Finally, the prior art reference (or references when combined) must teach or suggest all the claim

³⁶ Id.

³⁷ *In re Rijckaert*, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993) (quotations and citations omitted).

³⁸ *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991).

³⁹ Id.

⁴⁰ Id.

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limitations.⁴¹ The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure.⁴²

2. The Examiner Has Failed to Establish a Prima Facie Case of Obviousness

As discussed above in sections IX.A, IX.B, IX.C and IX.D, the Examiner has failed to establish at least two of the basic criteria to establish a *prima facie* case of obviousness. The Examiner has failed to show that all the claim limitations are taught or suggested by the prior art. In addition, the Examiner has failed to show some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to combine the reference teachings.

3. The Examiner Has Failed to Respond to Appellant's Arguments and Has Not Provided Appellant a Fair Opportunity to Respond

The Examiner must consider any evidence supporting the patentability of the claimed invention, such as evidence in the specification or any other evidence submitted by the applicant.⁴³ The ultimate determination of patentability is based on the entire record with due consideration to the persuasiveness of any arguments.⁴⁴ In addition, the Manual of Patent Examining Procedure states that it is important for an examiner to properly communicate the basis for a rejection so that the issues can be identified and the applicant can be given a fair opportunity to reply.⁴⁵

Appellant argued in several responses that the Examiner's assertions regarding consumers shopping propensities and preferences, whether accurate or not, does not establish the required showing of obviousness.⁴⁶ Appellant noted that many consumers currently do just what the Examiner asserts they would not do, that is, buy a car without seeing or test driving the final product including all its options.⁴⁷ In both of the subsequent Office Actions, mailed August 21, 2002 and May 30, 2003, respectively, the Examiner repeats substantially verbatim the previous

⁴¹ Id.

⁴² Id.

⁴³ *In re Oetiker*, 977 F.2d 1443, 24 U.S.P.Q.2d 1443 (Fed. Cir. 1992).

⁴⁴ Id.

⁴⁵ M.P.E.P. § 706.02(j), Eighth Edition, Revised February 2003, p. 700-45.

⁴⁶ Response, mailed May 31, 2002, p. 4; Response, mailed December 20, 2002, p. 4.

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arguments without providing any evidence or support of the Examiner's unsubstantiated assertions.

Appellant also notes that the version of Claim 38 rejected in the four most recent Office Actions was a previous version of the claim which did not incorporate the December 7, 2000 amendment that added the features regarding the user-selected alterations of physical product exterior/interior options.⁴⁸ In each of these Office Actions, the Examiner repeated verbatim the rejection of the same incorrect version of Claim 38.⁴⁹ Appellant noted the insufficiency of the rejection of Claim 38, but the Examiner did not address this issue in the subsequent Office Action mailed May 30, 2003.⁵⁰

In view of the foregoing, Appellant submits that the Examiner did not consider all of the evidence supporting the patentability of the claimed invention as submitted by Appellant. Thus, the ultimate determination of patentability was not based on the entire record, as required, with due consideration to the persuasiveness of any arguments. In addition, the Examiner did not properly communicate the basis for the rejections so that the issues could be identified and the Appellant given a fair opportunity to reply.

X. CONCLUSION

In light of the facts and arguments presented, Appellant respectfully submits that all of the pending claims in the present application are not obvious in view of the references of record, and that the Examiner has not established a *prima facie* case of obviousness. Consequently, Claims 1-16, 38-57, 67 and 68 are in condition for allowance.

⁴⁷ Response, mailed December 20, 2002, p. 4.

⁴⁸ Office Action, mailed March 14, 2003, pp. 17-19; Office Action, mailed December 31, 2002, pp. 16-17; Office Action, mailed August 21, 2002, pp. 16-17; Office Action, mailed May 30, 2003, pp. 8-9.

⁴⁹ Id.

⁵⁰ Response, mailed December 20, 2002, p. 5.

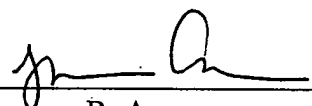
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Filed : February 16, 1999

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 11/26/03

By: 
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XI. APPENDIX: CLAIMS ON APPEAL

1. A product configuration display system comprising:

a data center having a microprocessor operably connected to a storage media, said data center configured to be networked with at least a buyer terminal, said data center configured to receive at least one request to change a product presentation from said buyer terminal;

at least one three-dimensional representation of a first product stored in said storage media, said at least one representation of said first product capable of illustrating multiple perspective views of said first product by rotating said three-dimensional representation of the product; and

a product display module operably connected to said storage media and configured to execute in said data center, said product display module including a definition of a product display screen accessible by said buyer terminal, said product display module configured to receive a request to change a product presentation through said product display screen, said request comprising user-selected alterations of physical product exterior/interior options, said product display module configured to display the changed product presentation comprising said user-selected alterations of physical product exterior/interior options in said product display screen by modifying said definition of the product display screen.

2. The system as defined in Claim 1, wherein said at least one three-dimensional representation of said first product is a three-dimensional model of said first product.

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3. The system as defined in Claim 1, wherein said at least one three-dimensional representation of said first product is at least one three-dimensional photograph of said first product.

4. The system as defined in Claim 1, wherein said definition of said product display screen includes a manufacturer suggested retail price and an adjusted price.

5. The system as defined in Claim 1, wherein said rotating includes rotating about a first axis then rotating about a second axis.

6. The system as defined in Claim 5, wherein said first axis is a substantially horizontal axis and said second axis is a substantially vertical axis.

7. The system as defined in Claim 5, wherein said first axis is a substantially vertical axis and said second axis is a substantially horizontal axis.

8. The system as defined in Claim 1, wherein said rotating is continuous.

9. The system as defined in Claim 1, wherein said rotating is about a point within the interior of said three-dimensional representation of the product.

10. The system as defined in Claim 1, wherein said rotating is about a point on the exterior of said three-dimensional representation of the product.

11. The system as defined in Claim 1, wherein said three-dimensional representation can be rotated to illustrate a constant source of light.

12. The system as defined in Claim 1, wherein said request to change said product presentation includes a request to change a product perspective view.

13. The system as defined in Claim 12, wherein said request to change said product perspective view includes changing a reference angle.

14. The system as defined in Claim 12, wherein said request to change said product perspective view includes changing said rotating to a different direction.

15. The system as defined in Claim 1, wherein said request to change said product presentation includes a request to change a product configuration.

16. The system as defined in Claim 1, wherein said request to change said product presentation includes a request to change a product color.

17.-37 (Canceled)

38. A method of presenting at least one product configuration over a network, comprising the acts of:

providing a data center having a microprocessor operably connected to a storage media, said data center configured to be networked with at least a buyer terminal, said data center configured to receive at least one request to change a product presentation from said buyer terminal, said request comprising user-selected alterations of physical product exterior/interior options;

providing at least one three-dimensional representation of a first product stored in said storage media, said at least one representation of said first product capable of illustrating multiple perspective views of said first product by rotating said three-dimensional representation of the product;

providing a definition of a product display screen accessible by a buyer terminal, said definition of said product display screen includes a product presentation, wherein said product presentation includes at least one perspective view of said first product;

receiving a request to change said product presentation from a buyer terminal, said request comprising user-selected alterations of physical product exterior/interior options; and

modifying said definition of said product display screen according to said request to change said product presentation comprising said user-selected alterations of physical product exterior/interior options.

39. The method as defined in Claim 38, wherein said at least one three-dimensional representation of said first product is a three-dimensional model of said first product.

40. The method as defined in Claim 38, wherein said at least one three-dimensional representation of said first product is at least one three-dimensional photograph of said first product.

41. The method as defined in Claim 38, wherein said definition of said product display screen includes a manufacturer suggested retail price and an adjusted price.

42. The method as defined in Claim 38, wherein said rotating includes rotating about a first axis then rotating about a second axis.

43. The method as defined in Claim 42, wherein said first axis is a substantially horizontal axis and said second axis is a substantially vertical axis.

44. The method as defined in Claim 42, wherein said first axis is a substantially vertical axis and said second axis is a substantially horizontal axis.

45. The method as defined in Claim 38, wherein said rotating is continuous.

46. The method as defined in Claim 38, wherein said rotating is about a point within the interior of said three-dimensional representation of the product.

47. The method as defined in Claim 38, wherein said rotating is about a point on the exterior of said three-dimensional representation of the product.

48. The method as defined in Claim 38, wherein said three-dimensional representation can be rotated to illustrate a constant source of light.

49. The method as defined in Claim 38, wherein said request to change said product presentation includes a request to change a product perspective view.

50. The method as defined in Claim 49, wherein said request to change said product perspective view includes changing a reference angle.

51. The method as defined in Claim 49, wherein said request to change said product perspective view includes changing said rotating to a different direction.

52. The method as defined in Claim 38, wherein said request to change said product presentation includes a request to change a product configuration.

53. The method as defined in Claim 38, wherein said request to change said product presentation includes a request to change a product color.

54. The method as defined in Claim 38, further comprising the acts of:

providing at least one three-dimensional representation of a second product stored in said storage media;

receiving a request to change said product presentation by combining said at least one representation of said second product with said at least one representation of said first product.

55. The method as defined in Claim 38, further comprising the acts of:

providing at least one three-dimensional representation of a second product stored in said storage media; and

receiving a request to change said product presentation by removing substantially said at least one representation of said second product from said at least one representation of said first product.

56. The method as defined in Claim 38, further comprising the acts of:

providing at least one three-dimensional representation of a second product stored in said storage media; and

receiving a request to change said product presentation by replacing substantially said second product contained within said at least one representation of said first product with said at least one representation of said second product.

57. The method as defined in Claim 38, further comprising the acts of:

providing at least one three-dimensional representation of a second product stored in said storage media; and

receiving a request to change said product presentation by superimposing said at least one representation of said first product and said at least one representation of said second product.

58.-66. (Canceled)

67. A product configuration display system comprising:

a data center having a microprocessor operably connected to a storage media, said data center configured to be networked with at least a buyer terminal, said data center configured to receive at least one request to change a product presentation from said buyer terminal;

at least one three-dimensional representation of a first product stored in said storage media, said at least one representation of said first product capable of illustrating

multiple perspective views of said first product by rotating said three-dimensional representation of the product; and

a product display module operably connected to said storage media and configured to execute in said data center, wherein said product display module includes a definition of a product display screen accessible by said buyer terminal, wherein said product display module is configured to receive one or more requests to change a product presentation of said first product and said second product through said product display screen wherein said request comprises user-selected alterations of physical product exterior/interior options to create modified product presentations of said first and second products, wherein said first and second modified product presentations are stored as first and second stored product presentations, and wherein said product display module is configured to retrieve and simultaneously display said first and second stored product presentations comprising said user-selected alterations of physical product exterior/interior options in said product display screen by modifying said definition of the product display screen.

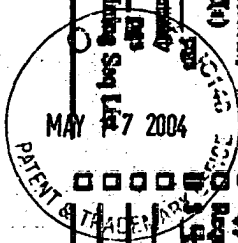
68. The system of Claim 67, wherein said first product and said second product are the same product, and wherein said first and second stored product presentations have different user-selected alterations of physical product exterior/interior options.

UTILITY/DESIGN PATENT
(nonofficial unexamined)

Date: 11/26/2003
Date of Act: 5/20/2003

Rec'd to the USPTO on the date stamped herein via Certificate of Mailing
Doc No: 44208.0001 Application: 44208.0001
Title: Method for Data Acquisition and Data System
App No: 09/251,218 Filed: 2/10/2004
Inventor: DAVID A. BROWN
Attorney: DAVID A. BROWN

- VERIFIED BY: DAVID A. BROWN AGENT: DAVID A. BROWN
- ☐ Transmittal Letter
 - ☐ Amendment to: _____ pgs
 - ☐ 1 Month Extension Requested
 - ☐ Information Disclosure Statement with PTO-1449 w/ _____ Ref(s)
 - ☐ Terminal Disclaimer in _____ pgs
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